

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) 8:10CR169
Plaintiff,)
vs.) ORDER
THOMAS J. HERINK,)
Defendant.)

This matter is before the court on the motion to continue by defendant Thomas J. Herink (Herink) ([Filing No. 61](#)). Herink seeks a continuance of the trial scheduled for June 20, 2011. Herink has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Herink consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act ([Filing No. 62](#)). Government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Herink's motion to continue trial ([Filing No. 61](#)) is granted.
2. Trial of this matter as to all defendants is re-scheduled for **August 22, 2011**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **June 13, 2011 and August 22, 2011**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 13th day of June, 2011.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge